



24 APR 2003

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In re Application of	:	
Barth et al	:	
Application No.: 09/889,341	:	DECISION ON
PCT No.: PCT/EP00/01574	:	
Int. Filing Date: 25 February 2000	:	PETITION
Priority Date: 30 March 1999	:	
Attorney's Docket No.: 6386-08-IM	:	UNDER 37 CFR 1.181
For: METHODS FOR ARYLATING ...	:	
OF CESIUM CARBONATE	:	

This decision is in response to the "Petition Under 37 C.F.R. 1.181 to Withdraw Holding of Abandonment" filed on 22 July 2002, requesting the withdrawal of the Notice of Abandonment mailed on 16 August 2001 because the response to the "Notification of Missing Requirements" was timely.

BACKGROUND

On 16 July 2001, applicants filed a transmittal letter for entry into the national stage in the United States which was accompanied by, inter alia, the requisite basic national fee as required by 35 U.S.C. 371(c)(1) and an executed Declaration as required by 35 U.S.C. 371(c)(4). Applicants, however, did not satisfy the requirement set forth by 35 U.S.C. 371(c)(2) because no translation of the International Application was provided with the transmittal letter.

On 16 August 2001, the United States Designated/Elected Office (DO/EO/US) mailed a "NOTIFICATION OF MISSING REQUIREMENTS UNDER 35 U.S.C. 371 IN THE UNITED STATES DESIGNATED/ELECTED OFFICE (DO/EO/US)" (Form PCT/DO/EO/905) which informed applicant, inter alia, that a translation of the application into English and processing fee (37 CFR 1.492(f)) for providing the translation of the application later than the appropriate 30 months from the priority date must be submitted within two (2) months from its 16 August 2001 date of mailing or by 32 months from the priority date, whichever is later, in order to avoid abandonment of the national stage application.

On 30 May 2002, the DO/EO/US mailed a "NOTIFICATION OF ABANDONMENT" which indicated that application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 16 August 2001. Since no reply was received, the application was abandoned.

On 22 July 2002, applicants filed the instant petition requesting withdrawal of the Notice of Abandonment in response to the "NOTIFICATION OF ABANDONMENT" mailed on 30 May 2002. In support of the request, petitioner has provided a copy of the returned/stamped receipt card acknowledging a receipt date of 07 February 2002, within the time period of response. The petition includes a copy of the signed and dated Response to the Notice of Missing Requirements and the papers accompanying the response is enclosed which included, inter alia, a verified English translation of the non-English language application papers as originally filed.

DISCUSSION

The present petition was accompanied by a copy of the original postcard which was sent to the United States Designated/Elected Office (DO/EO/US). The postcard indicates that a response to the Notice of Missing Requirements under 35 U.S.C. 371 was submitted on 07 February 2002, which would indicate that a verified English translation of the non-English language application was provided on such date.

MPEP 503 provides:

A postcard receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the PTO of all the items listed thereon on the date stamped thereon by the PTO.

Applicant's postcard receipt serves as *prima facie* evidence of receipt of a verified English translation of the non-English language application on 07 February 2002 by the USPTO.

In view of the above, the applicant's response is considered timely. Accordingly, the instant application has been improperly abandoned.

CONCLUSION

The petition is under 37 CFR 1.181 is GRANTED. Applicants' request to withdraw the "NOTIFICATION OF ABANDONMENT" is GRANTED.

The NOTIFICATION OF ABANDONMENT, mailed 30 May 2002 has been VACATED.

The application is being returned to the United States Designated/Elected Office (DO/EO/US) for processing in accordance with this decision, that is, for issuance of a Notification of Acceptance of Application (Form PCT/DO/EO/903) identifying a 35 U.S.C. § 371 date of **07 February 2002**.



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